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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MAJESTIC EMPIRE HOLDINGS, LLC,
a Nevada limited liability company,

Plaintiff,

v.

COMMONWEALTH LAND TITLE
INSURANCE COMPANY, a foreign
corporation; ROE COMPANIES 1-10;
and DOE INDIVIDUALS 1-10,

Defendants.

Case No. 2:09-cv-02080-GMN-PAL

**STIPULATION AND ORDER
AMENDING THE SCHEDULING
ORDER TO EXTEND DEADLINES
FOR FILING OF DISPOSITIVE
MOTIONS AND JOINT PRETRIAL
ORDER PENDING MEDIATION
(FIFTH REQUEST)**

Plaintiff MAJESTIC EMPIRE HOLDINGS, LLC ("Majestic"), by and through its attorneys, MATTHEW T. MILONE, ESQ. and BRADLEY SCOTT SCHRAGER, ESQ. of the law firm of JONES VARGAS, and defendant COMMONWEALTH LAND TITLE INSURANCE COMPANY ("Commonwealth"), by and through its attorneys, ERIC P. EARLY, ESQ. and WILLIAM A. WRIGHT, ESQ. of the law firm of EARLY SULLIVAN WRIGHT GIZER & McRAE LLP, hereby stipulate and agree to jointly move this Court for an Order to extend the deadlines for the filing of dispositive motions and filing the pretrial order.

Over the last two months, the parties have taken fifteen depositions of party and third-party witnesses. Having fleshed out the facts and issues in this case, the parties now wish to submit this matter to a private mediation. The parties are hereby requesting an extension of the deadline for

1 filing dispositive motions (currently set for December 17, 2010), and the deadline for filing the pre-
2 trial order (currently set for January 14, 2011), to avoid incurring significant fees in connection with
3 both motion practice and trial preparation, while the parties attempt to resolve this matter. In this
4 regard, the parties are in the process of selecting a mediator and available dates for mediation.
5 Additionally, the parties are presently engaged in direct settlement discussions, in an effort to
6 attempt to resolve this matter prior to mediation. *The parties are not seeking an extension of any*
7 *discovery deadlines.*

8 **I. AMENDED PLAN**

9 **A. Discovery That Has Been Completed**

10 The parties signed a joint discovery plan and scheduling order on December 14, 2009.
11 Pursuant to the parties' stipulations, the Court amended the discovery plan and scheduling order on
12 February 8, May 18, July 29 and October 19, 2010.

13 Commonwealth served its initial written discovery in February 2010, and Majestic served its
14 initial written discovery in April 2010. Since that time, the parties have responded to extensive
15 interrogatories, document requests and requests for admissions, and have produced thousands of
16 pages of documents.

17 The parties have also conducted extensive third-party discovery. Since March 2010, the
18 parties have served eleven third-party document subpoenas. Those third parties have also produced
19 thousands of pages of documents.

20 In August 2010, the parties exchanged their initial expert witness disclosures and reports. In
21 September 2010, the parties exchanged their rebuttal expert disclosures and reports.

22 Throughout October and November 2010, the parties took fifteen party and third-party
23 depositions, including the depositions of both of Commonwealth's experts, both of Majestic's
24 experts, Heidi Kent, Steven Bauer, Bradley Schrager, Kathleen Fellows, Bradford Honigfeld, Carl
25 Nielsen, Marilyn Fine, Marlene Laveman, David Cahill, Anthony Gordon and Richard Serfas,
26 several of whom were 30(b)(6) witnesses for various entities.

27 The parties have met and conferred regarding numerous discovery issues, including
28 electronic discovery.

B. Discovery That Remains To Be Completed

On November 19, 2010, Commonwealth filed a motion to compel the production of certain documents pertaining to Majestic's testifying expert, Mark D. Capasso. The motion is currently scheduled for hearing on January 4, 2011. The parties are presently meeting and conferring on certain issues pertaining to their respective privilege logs.

C. Reasons Amendment of Discovery Plan Is Sought

As set forth above, the parties seek an extension of two deadlines – the dispositive motion deadline and the deadline to file the pre-trial order (currently December 17, 2010 and January 14, 2010, respectively) – so that they can proceed to private mediation without incurring the significant costs and fees associated with dispositive motion practice and trial preparation. The parties are already engaged in informal, direct settlement discussions, which remain ongoing.

Due to the limited availability of qualified mediators, as well as the travel schedules of Majestic's representatives from New Jersey and Commonwealth's out-of-state representatives, the parties believe that they will not be able to complete a mediation before February 2011. Accordingly, the parties respectfully request that these two deadlines be continued, as set forth below.

D. Proposed Schedule to Complete Discovery

1. Discovery Cut-Off. The discovery cut-off date was Friday, November 19, 2010. *No extension of this deadline is requested.*

2. FRCP 26(a)(2) Disclosures (Experts): The date for the disclosure of experts and expert reports was Monday, August 16, 2010. *No extension of this deadline is requested.*

3. Rebuttal Experts: The date to disclose rebuttal experts was Monday, September 13, 2010. *No extension of this deadline is requested.*

4. Interim Status Reports: The parties filed their interim status report required by LR 26-3 by Friday, August 6, 2010. *No extension of this deadline is requested.*

5. Dispositive Motions. The deadline to file dispositive motions shall be continued from Friday, December 17, 2010 to Friday March 11, 2011

6. Pre-Trial Order. The deadline for the parties to file their pre-trial order shall be continued from Friday, January 14, 2011 to Friday April 8, 2011.

7. Except as expressly amended above, the Scheduling Order, First Amended Scheduling Order, Second Amended Scheduling Order, Third Amended Scheduling Order, and Fourth Amended Scheduling Order shall remain in all other respects in full force and effect.

II. TRIAL DATE

Pursuant to the Court's October 19, 2010 order, the previous February 28, 2011 trial date in this action was vacated, to be reset upon submission of the pretrial order. Thus, there is no trial date presently set in this action.

WHEREFORE, the parties hereto respectfully request the Honorable Court to adopt the foregoing stipulation and upon the joint motion of the parties to extend the dates for filing dispositive motions and the joint pretrial order.

**EARLY SULLIVAN WRIGHT
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DATED 12/6/10

JONES VARGAS

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DATED 12/6/10

ORDER

IT IS SO ORDERED.

DATED this 7th day of December, 2010.


U. S. MAGISTRATE JUDGE/ DISTRICT COURT JUDGE